

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND

DONNA L. WHITAKER

Plaintiff,

V.

CIVIL ACTION NO.

NATIONAL ENTERPRISE SYSTEMS, INC.

Defendant.

FEBRUARY 24, 2010

**COMPLAINT**

I. INTRODUCTION

1. This is an action for actual and statutory damages brought by Plaintiff Donna L. Whitaker, as an individual consumer, against Defendant National Enterprise Systems, Inc., hereinafter (“NES”) for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (hereinafter “FDCPA”), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

II. JURISDICTION

2. Jurisdiction of this court arises under 15 U.S.C. § 1692k (d) and 28 U.S.C. § 1337. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202. Venue in this District is proper in that the Defendant transacts business here and the conduct complained of occurred here.

### III. PARTIES

3. Plaintiff Donna L. Whitaker is a natural person residing in the Town of Laurel, County of Anne Arundel, and State of Maryland.

4. Defendant, NES, is a foreign corporation engaged in the business of collecting debts in the State of Maryland with its principal place of business located at 29125 SOLON ROAD, SOLON, OH 44139-3442 and is authorized to do business in Maryland. The principal purpose of Defendant business is the collection of debts in this State and defendant regularly attempts to collect debts alleged to be due another.

5. Defendant NES is engaged in the collection of debts from consumers using the mail and telephone. Defendant regularly attempts to collect consumer debts alleged to be due to another. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a (6).

### IV. FACTUAL ALLEGATIONS

6. Plaintiff contacted the Defendant by telephone on or about December 2009.

7. Plaintiff spoke to Defendant NES’s employee who identified herself as Carol.

8. Defendant’s employee Carol failed to provide the required notice pursuant to 15 U.S.C. §1692e (11).

9. Plaintiff advised the Defendant through its employee Carol, that she wanted to orally dispute the alleged debt.

10. Defendant's employee Carol advised the Plaintiff that she could not dispute the debt because NES did not accept oral disputes because they are not permitted by law, which statement is false, deceptive and misleading in violation of §1692e.

11. Defendant's employee Carol also advised the Plaintiff that the oral dispute will have no effect on her credit report nor will her oral dispute be noted on her credit report. This statement is false, deceptive and misleading in violation of §1692e and f.

12. Defendant's statements were false, deceptive and misleading and violated 15 U.S.C. §1692e.

13. As a result of the acts alleged above, Plaintiff has been damaged.

#### V. CLAIM FOR RELIEF

14. Plaintiff repeats and realleges and incorporates by reference to the foregoing paragraphs.

15. Defendant NES violated the FDCPA including but not but not limited to, the following:

(a) Violation of §1692e (8) Communicating or threatening to communicated to any person credit information which is know or which should be know to be false, including the failure to communicate that the debt is disputed.

(b) Violation of §1692e (11).

16. As a result of the foregoing violations of the FDCPA, Defendant NES, Inc. is liable to the Plaintiff for declaratory judgment that NES's conduct violated the FDCPA, actual damages, statutory damages, costs and attorney's fees.

WHEREFORE, Plaintiff respectfully requests that judgment is entered against defendant NES for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA;
- B. Actual damages;
- C. Statutory damages pursuant to 15 U.S.C. § 1692k;
- D. Costs and reasonable attorney's fees pursuant to 15 U.S.C §1692k (3).
- E. For such other and further relief as the Court may deem just and proper.

THE PLAINTIFF

BY 

Bernard T. Kennedy, Esquire

The Kennedy Law Firm

P.O. Box 657

Edgewater, MD 21037

Ph (443) 607-8901

Fax (443) 607-8903

Fed. Bar # Md26843

bernardtkennedy@yahoo.com